

Marcia & I will
be meeting on
this next week -
hold for a
meeting file

DATE: December 14, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: December 13 Insular Territories Meeting

On Monday, December 13, I attended a meeting of Congressional Delegates from Insular Territories, House and Senate Committee Staff, and officials from the Department of Interior. The meeting was headed by Marcia Hale, and was intended to allow the Congressional representatives to air their differences with the proposed DPC Working Group on Insular Territories. This memorandum summarizes the important issues brought up at this meeting. I have also attached a copy of a letter the Delegates sent yesterday to Secretary Babbitt.

IMPORTANT ISSUES

Opposition to an Interior-Led DPC Sub-Group

It seems clear that, judging from comments at the meeting and the attached letter, this group has some serious problems with the Department of Interior heading up a sub-group of the DPC (or a sub group of any kind). I believe there are two primary reasons for this resistance:

- First, there is a basic misunderstanding of how the Domestic Policy Council (and Intergovernmental Affairs as well) works. The Delegates and Committee staff seem to think that because the Department of Interior would chair the sub-group meetings, they would somehow centralize their authority over Insular issues. I tried to explain to them that this would not be the case -- that any decisions of the sub-group would filter up to you and other White House Principals for approval -- but I am afraid I was not successful.
- Second, there is a tremendous amount of emotion and resentment that exists from the Office of Territorial and International Affairs (OTIA) past relationship with the Insular Territories. OTIA is seen as representing the old colonial attitudes that used to permeate US/Territorial relations. This strong emotion virtually guarantees that any arrangement that places OTIA/Interior at the head of a sub-group will be viewed as unacceptable.

Appropriateness of DPC as Home for Sub-Group

There were some questions raised about the appropriateness of DPC as the home for an Insular Territories sub-group. Congressional participants at the

meeting seem feel that most of the issues that they are concerned about fall under NEC and NSC's realm of influence. The attached letter echoes this sentiment, stating on p. 2 that "many of the most important issues are actually within the purview of the other two Presidential policy councils (NEC and NSC)."

Inclusion of Puerto Rico

I believe that the Congressional participants were arguing for inclusion of Puerto Rico in any policy council mechanism that we create, although this was not very clear. Some argued that it made no sense to exclude Puerto Rico given its importance, yet at the same time others pointed out that inclusion of Puerto Rican issues would likely overwhelm the other Territories' issues and concerns. You may want to check with Marcia Hale for a better reading on this point.

Intergovernmental Affairs Involvement

Another misunderstanding arose over the role that Intergovernmental Affairs plays in the White House policymaking process. Strong appeals were made for Marcia and Intergovernmental Affairs to take the lead role in the interagency policymaking process. Marcia did a good job of explaining that her role is one of liaison, not of policymaking, and that DPC was the place for any policy-related body to reside. Hopefully, this point was made clear.

NEXT STEPS

Marcia told the group that she would meet with you and Donsia in the near future to discuss the concerns that were raised at the meeting.

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515-6201

December 13, 1993

The Honorable Bruce Babbitt
Secretary
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

Thank you again for meeting to discuss our objections to the Office of Territorial and International Affairs plan to obtain a role regarding the programs of other agencies as they relate to some of the insular areas and other concerns involving OTIA. We appreciate your commitment to work with us to reach a consensus on the way that matters affecting insular areas are handled and on the appropriate insular functions for Interior now that the insular areas have developed to the extent that they have.

Since our meeting, our staffs have had preliminary conversations about the critical issues involved. Also, Assistant Secretary Turner helpfully provided us with a draft proposal; explained that it was intended to address some of the major problems we had found in the plan; and sought support for the proposal.

The draft, however, confirmed the reasons for strong reservations about the plan. Its flaws include some of its basic elements and its underlying concept as well as provisions that can be modified. These fundamental defects cannot be rectified by minor revisions or interpretations. They require a different approach.

The most serious deficiency is that the proposal would allow OTIA to assume a lead and paternal role in all federal activities applying to the U.S. insular areas other than Puerto Rico.

OTIA currently has no statutory authority regarding other agencies' programs as they relate to Guam, the Northern Mariana Islands, and Virgin Islands and should not have such authority relating to American Samoa. Giving it a coordinating role regarding policies within the jurisdiction of other agencies would inevitably centralize power...even if that is not what is intended. No language providing assurances to the contrary could prevent other agencies from deferring to it, if only unofficially. This could add a bureaucratic hurdle to decisions.

OTIA once had extensive power over federal and local policies in all of the areas. Almost all of this authority has been replaced as islands have developed. Now that it is about to lose its last responsibility for administering a territory (Palau) it is time to plan Ms. Turner's supportable goal of being the last assistant secretary; not to give OTIA new power or a new lease on life.

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Another concern is that the proposal would inexplicably establish a policy coordination mechanism for only four of the five U.S. insular areas. The fifth area, Puerto Rico, raises many of the same issues that the others do. The similarities between it and the Virgin Islands, for example, are often greater than between the Caribbean and the Pacific areas. At the same time, the distinctions among the Pacific areas are substantial. We point out the illogical nature of this aspect of the proposal to challenge lumping in together the areas that are included as much as to question including all but one of the insular areas.

We also have doubts about permitting OTIA to head a part of the Domestic Policy Council. This would exacerbate the problem of OTIA being in a lead role because it would effectively enable OTIA to lead a presidential office in addition to line agencies. Further, many of the most important issues are actually within the purview of the other two presidential policy councils.

After the plan's weaknesses were outlined to your staff, they suggested that we try to jointly identify the essential components of an acceptable structure for Executive Branch handling of matters concerning the insular areas. We agreed and, to keep faith with this understanding, the Committee deferred action on a proposal to essentially terminate OTIA. We, therefore, remain ready to collaborate with you in developing supportable federal policy procedures.

A requirement is that any new arrangement not represent a regression in the treatment of the areas. Hopefully, instead, it will be a promotion in insular political development. What we seek is a way to compensate for the areas' lack of power in the regular federal process. Additionally, while it should enable them to get attention at the level states do, any new system should also provide for individual consideration of the different situations and needs of various insular areas.

To be adequate, a proposal should accomplish the following.

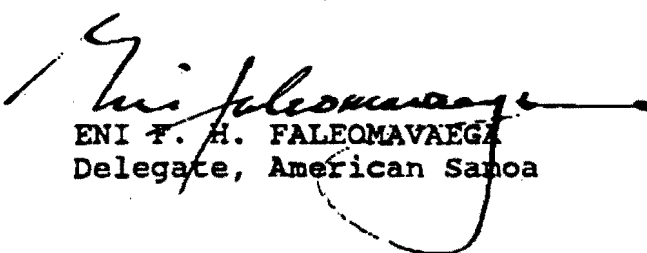
- o It should provide a primary contact point on special problems for the other U.S. insular areas within the Administration at the same level and as central as that for Puerto Rico since all of the areas are now as locally self-governing as Puerto Rico and since the issues involve those handled by the Economic, National Security, and Domestic Policy Councils. (Special questions regarding Puerto Rico are handled by the White House under a decision made by President Kennedy at Secretary Udall's recommendation and, within the White House, by the Office of Intergovernmental Affairs under a decision by Mr. McLarty.)

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- o It should provide for direct handling of day-to-day program matters by agencies and coordination, if necessary, by the appropriate entity in the Executive Office of the President, consistent with the Guam and Virgin Islands Organic Acts.
- o It should provide presidential support for your office's Guam commonwealth bill talks, to facilitate cooperation from other departments, consistent with the President's pledge to have them handled by a presidential representative.
- o It should provide for Northern Mariana Islands relations issues to be negotiated by a Representative of the President, as required by the Covenant with those islands and the law that approved it. The official should be a real representative of the President (as opposed to Interior) and report to the White House. It should also provide for other matters to be handled directly by agencies with the Commonwealth's Resident Representative, as also intended by the Covenant.

In closing, we want to express our hope that you will work with us to establish progressive measures to ensure that the officials really responsible for matters affecting insular areas address insular circumstances as seriously as they would those of the states. We also want to note that because this matter is a vital one in federal-insular relations and because the Constitution assigns Congress primary authority regarding insular policy, we regard it as being of the highest importance to this Committee.

Sincerely,



ENI F. H. FALEOMAVAEGA
Delegate, American Samoa



RON DE LUGO
Chairman
Subcommittee on Insular and
International Affairs
Delegate, Virgin Islands



ROBERT A. UNDERWOOD
Delegate, Guam

- cc: The Honorable George Miller
The Honorable Thomas F. (Mack) McLarty
The Honorable Marcia Hale
The Honorable Carol Rasco
The Honorable Leon Panetta
The Honorable Juan Babauta
The Honorable Leslie M. Turner

U.S. Insular Areas Relations/Policy Arrangement Criteria

- o No increase in OTIA's role. (OTIA now has no role in the programs of other agencies in Guam, the Virgin Islands, or the Northern Mariana Islands.) Plan a phase-out of OTIA, consistent with an objective to which Asst. Sec. Turner has agreed.**
- o An Administration contact point for Guam, the V.I., the N.M.I. and American Samoa as central as that for Puerto Rico (since all are now as self-governing as P.R.) A White House staff member central enough to provide equal and authoritative access to all EOP policy councils and offices and all agencies.**
- o No OTIA-led committee to centrally oversee or coordinate any matter relating to the four smaller areas together, consistent with the distinctions among them and the reality that they raise many of the same issues that Puerto Rico does. Individual attention to all areas from the appropriate agency or EOP entity.**
- o No functions for OTIA not authorized by law consistent with the Constitution's specific assignment that Congress lead on territories matters. Agreement on any new insular intergovernmental relations/ policy attention arrangement consistent with the role of the Delegates under law.**
- o Presidential support for the Interior Secretary's Office's Guam commonwealth bill talks to ensure attention by other agencies, consistent with the President's pledge to have them handled by a presidential representative.**
- o Handling of Northern Mariana Islands relations issues by a Representative of the President, as required by the Covenant and the Covenant law. (A real representative reporting to the White House as intended rather than an Interior official.)**
- o Agency handling of other N.M.I. issues with the Commonwealth's Resident Representative, as also provided for by the Covenant.**
- o Direct agency handling of program issues with Guam and the Virgin Islands, consistent with the Guam and V.I. Organic Acts.**